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**UNITED STATES DISTRICT COURT**

**DISTRICT OF NEVADA**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

VONTEAK ALEXANDER,

Defendant.

Case No.: 2:17-cr-00072-RFB

**VICTIM'S STATEMENT RE:  
SENTENCING AND RESTITUTION**

Victim Jane Doe, by and through her counsel, files this victim statement regarding sentencing and restitution. Jane Doe respectfully requests that this Court impose a meaningful sentence on Defendant that includes a restitution order in the amount of \$15,000. Jane Doe respectfully submits this statement to assist the Court in determining restitution.

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## **INTRODUCTION**

The Court indicted Defendant Vontak Alexander on five counts of human trafficking charges: Conspiracy to Commit Sex Trafficking in violation of 18 U.S.C. § 1694(c); Sex Trafficking in violation of 18 U.S.C. §§ 1591(a)(1), (a)(2), (b)(2) and (c); Conspiracy to Transport for Prostitution or Other Criminal Sexual Activity in violation of 18 U.S.C. § 1594(c); Transportation for Prostitution or Other Criminal, Sexual Activity in violation of 18 U.S.C. § 2423(a); and Coercion and Enticement in violation of 18 U.S.C. § 2422(b). Defendant entered into a guilty plea for two counts of Interstate Travel in Aid of Unlawful Activity in violation of 18 U.S.C. § 1952(a)(3)(A) on May 15, 2019. The Court has set Defendant's sentencing hearing for December 22, 2020 at 2:00 PM. As detailed below, victim Jane Doe has suffered and continues to suffer significant harm from Defendant's criminal conduct. Jane Doe respectfully requests that this Court impose a meaningful sentence on Defendant that includes a restitution order in the amount of \$15,000. Jane Doe respectfully submits this statement to assist the Court in determining restitution.

## **SUMMARY OF PROCEEDINGS**

On February 28, 2017, the Court indicted Defendant on five counts: Conspiracy to Commit Sex Trafficking in violation of 18 U.S.C. § 1694(c); Sex Trafficking in violation of 18 U.S.C. §§ 1591(a)(1), (a)(2), (b)(2) and (c); Conspiracy to Transport for Prostitution or Other Criminal Sexual Activity in violation of 18 U.S.C. § 1594(c); Transportation for Prostitution or Other Criminal, Sexual Activity in violation of 18 U.S.C. § 2423(a); and Coercion and Enticement in violation of 18 U.S.C. § 2422(b).

On May 15, 2019, Defendant plead guilty to Interstate Travel in Aid of Unlawful Activity in violation of 18 U.S.C. § 1952(a)(3)(A).

The Court has set Defendant's sentencing hearing for December 22, 2020 at 2:00 PM.

## **SUMMARY OF FACTS**

Jane Doe is the crime victim in this case and a survivor of sexual exploitation and human trafficking at the hands of Defendant. Defendant recruited and then sex trafficked Jane Doe from March 28, 2016 through April 16, 2016 while Jane Doe was twelve years old. Jane Doe has suffered extreme and physical, mental, emotional damages as a result of Defendant's crimes against her.

On the night of March 28, 2016, Defendant abducted Jane Doe in San Leandro, California. Defendant approached Jane Doe in an alleyway, grabbed her, put her in his car, locked the doors, and drove away. Defendant and Jane Doe had no prior relationship. Jane Doe struggled to get free, but Defendant assaulted and drugged her until she fell asleep.

Defendant then drove twelve-year-old Jane Doe from San Leandro, California to Los Angeles, California to Las Vegas, Nevada with the intent that Jane Doe engage in commercial sex acts. Many times during that period, Defendant violently assaulted and threatened Ms. Doe such that she was forced to engage in sexual acts with strangers for money, which Jane Doe was required to give to Defendant.

Defendant first kept Jane Doe in Los Angeles for two or three days. He sent her to the track to sell sex for one night, instructing her to charge \$50 for oral sex and at least \$80 for sex. Jane Doe was forced to have sex with two adult men that night, and she brought back Defendant approximately \$200.

Defendant then drove Jane Doe to Las Vegas, Nevada, where he forced her to work nearly every night from an average of 13 hours a day for several weeks. Jane Doe made approximately \$500 to \$1000 per night for the several weeks Defendant kept her in Las Vegas. During this time, Defendant forced Jane Doe to perform sexual acts on multiple adult men in hotel rooms and cars. In addition, Defendant himself had sex with Jane Doe nearly every night that he kept her in Las Vegas.

On April 16, 2016, Jane Doe approached security at the Orleans Hotel and Casino in Las Vegas and told them she was a missing juvenile who was being sex trafficked. Defendant was subsequently arrested and indicted on February 28, 2017.

1 Jane Doe has suffered extreme physical, emotional, and mental harm resulting from  
2 Defendant's crimes against her. She was repeatedly abused and violated by Defendant and the  
3 multiple adult men Defendant forced Jane Doe to have commercial sex with.

4 Jane Doe feared and still fears for her life and the lives of her family.

### 5 ARGUMENT

6 The Trafficking Victims Protection Act ("TVPA") makes restitution mandatory for Jane  
7 Doe as a victim of sex trafficking. Specifically, 18 U.S.C. § 1593(a) provides that "the court shall  
8 order restitution for any offense under this chapter," which encompasses victims of sex trafficking.  
9 *E.g., U.S. v. Culp*, 608 F. App'x 390, 392 (6th Cir. 2015) ("Courts must award restitution to victims  
10 of sex trafficking [under 18 U.S.C. 1593(a)].").

11 On May 15, 2019, Defendant plead guilty to Interstate Travel in Aid of Unlawful Activity in  
12 violation of 18 U.S.C. § 1952(a)(3)(A). Defendant's plea acknowledged that the conduct to which  
13 he entered a plea gave rise to mandatory restitution to the victim under 18 U.S.C. § 2259.  
14 Additionally, Defendant "acknowledges that the conduct to which he is entering a plea gives rise to  
15 mandatory restitution to the victim," and the Defendant agrees that for the purpose of assessing  
16 restitution that "the Court may consider losses derived from the counts of conviction as well as  
17 losses caused from dismissed counts and unchanged conduct in which the Defendant has been  
18 involved." *See Binding Plea Agreement Under Federal rule Criminal Procedure 11(c)(1)(A) and*  
19 *(C) filed May 15, 2019, Pg. 8-9.* Here, at least two counts from the initial indictment that were  
20 dismissed involved sex trafficking of a minor. *See* 18 U.S.C. §1591 and §1594(c). Defendant  
21 admits and declares that he facilitated the carrying on of unlawful activity by Jane Doe between  
22 March 28, 2016 to April 16, 2016. This unlawful activity that Defendant facilitated was the  
23 inducement of a 12 year old minor to engage in commercial sex which constitutes sex trafficking.  
24 Consequently, Jane Doe is also entitled to the mandatory restitution under 18 U.S.C. §1593 in  
25 addition to 18 U.S.C. § 2259. Accordingly, this Memorandum will assist the Court in determining  
26 restitution for Jane Doe as a sex trafficking victim under 18 U.S.C. §1593.  
27  
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1 The order of restitution “shall direct the defendant to pay the victim . . . *the full amount of*  
 2 *the victim’s losses*,” 18 U.S.C. § 1593(b)(1) (emphasis added), and “shall be issued and enforced in  
 3 accordance with section 3664 in the same manner as an order under section 3663A.” *Id.* §  
 4 1593(b)(2). As such, “[t]he court shall order restitution to each victim in the full amount of each  
 5 victim’s losses as determined by the court and without consideration of the economic circumstances  
 6 of the defendant.” *Id.* § 3664(f)(1)(A). Further, the court may not consider the fact that the victim  
 7 has received or is entitled to receive compensation with respect to a loss from insurance or any other  
 8 source. *Id.* § 3664(f)(1)(B). The “full amount of the victim’s losses” includes “the greater of the  
 9 gross income or value to the defendant of the victim’s services or labor or the value of the victim’s  
 10 labor as guaranteed under the minimum wage and overtime guarantees of the Fair Labor Standards  
 11 Act.” 18 U.S.C. § 1593(b)(3); *see also In re Sealed Case*, 702 F.3d 59, 67 (D.D.C. 2012) (purpose  
 12 of restitution is to “make victims of crime whole” by “fully compensating” them for their losses  
 13 (quoting *United States v. Frazier*, 651 F.3d 899, 904 (8th Cir. 2011))).

#### 14 I. DEFENDANT’S ILL-GOTTEN GAINS

15 The court shall include in the restitution order “the greater of the gross income or value to  
 16 the defendant of the victim’s services or labor or the value of the victim’s labor as guaranteed under  
 17 the minimum wage and overtime guarantees of the Fair Labor Standards Act [(“FLSA”).” 18  
 18 U.S.C. § 1593(b)(3); *see also Lewis*, 791 F. Supp. 2d at 90; *United States v. Fu Sheng Kuo*, 620  
 19 F.3d 1158, 1164 (9th Cir. 2010) (“[T]he Trafficking Act mandates restitution that includes a  
 20 defendant’s ill-gotten gains.”). This is true for victims of sex trafficking, notwithstanding that their  
 21 earnings came from illegal conduct. *Culp*, 608 F. App’x at 392; *United States v. Mammedov*, 304 F.  
 22 App’x 922, 927 (2d Cir. 2008) (“[T]he express terms of 18 U.S.C. § 1593(b)(3) require that the  
 23 victims in this case, i.e., persons who engaged in commercial sex acts within the meaning of 18  
 24 U.S.C. § 1591, receive restitution, notwithstanding that their earnings came from illegal conduct.”);  
 25 *United States v. Robinson*, 508 F. App’x 867, 871 (11th Cir. 2013) (“A child engaged in a sex  
 26 trafficking enterprise falls squarely within this definition” of victim under § 1593(c), especially  
 27 because minors cannot consent to prostitution).



1 The record supports a reasonably certain estimate of Jane Doe's losses with respect to  
 2 Defendant's ill-gotten gains. The evidence shows that Defendant indoctrinated Jane Doe into a life  
 3 of prostitution and forced Jane Doe to turn over all the monies she earned to him. Defendant forced  
 4 Jane Doe to work for him for approximately 20 days during which she earned an average of  
 5 approximately \$500 to \$1000 per day. She was forced to work for him approximately 13 hours per  
 6 day on average during that time period.

7 Accordingly, Jane Doe is entitled to restitution for the value of her services to  
 8 defendant over the time Jane Doe worked for him, which may be calculated as follows: average  
 9 daily earnings [\$750] x number of days worked for defendant [20 days]. Thus, Jane Doe is entitled  
 10 to restitution in the amount of \$15,000. See Lewis, 791 F. Supp. 2d at 92 & n.12 (appropriate  
 11 calculation for gross income or value to defendant is "the average daily amount [victim] earned over  
 12 the period of time the victim worked for the defendant").

13 Under the FLSA, Jane Doe is entitled to \$7.25 per hour worked, plus overtime, calculated at  
 14 one and one-half times that rate for every hour Jane Doe worked over forty hours per week. 29  
 15 U.S.C. §§ 206(a) & (b), 207(a), 216(d).<sup>12</sup> Furthermore, the FLSA provides that any employer who  
 16 violates the Act shall be liable for "an additional equal amount as liquidated damages." *Id.* §  
 17 216(d); *United States v. Sabhnani*, 599 F.3d 215, 259–60 (2d Cir. 2010) (affirming liquidated  
 18 damages under the FLSA for trafficking victims).

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20 <sup>1</sup> Rest periods running between five and twenty minutes must be counted towards hours worked, and may not be offset  
 21 against other working time such as compensable waiting time or on-call time. 29 C.F.R. 785.18. Although bona fide  
 22 meal periods – which ordinarily must be thirty minutes or longer – are not worktime, "the employee is not relieved if he  
 23 is required to perform *any* duties, whether active, or inactive while eating." *Id.* 785.19(a) (emphasis added); *see also*  
 24 *United States v. Sabhnani*, 566 F. Supp. 2d 139, 143 (E.D.N.Y. 2008) (not bona fide meal period where victims were  
 25 not provided with a sufficient amount of food or time to eat), *aff'd in part, vac'd in part*, 599 F.3d 215 (2d Cir. 2010).  
 Moreover, under certain conditions, such as where the employee is required to be on duty or is interrupted with work, an  
 employee is considered to be working even though some of his time is spent sleeping or on certain other nonwork  
 activities. 29 C.F.R. 785.20–22; *Sabhnani*, 577 F. Supp. 2d at 143 (victims considered working all day where they  
 testified that they were called upon to perform at all hours of the day and night). If an interruption prevents the  
 employee from getting a reasonable night's sleep (*i.e.*, at least five hours), the entire period must be counted as work.  
*Id.* 785.22(b).

26 <sup>2</sup> Although the FLSA generally provides for a two-year statute of limitations, and three-year statute of limitations for a  
 27 willful violation, the limitations period is tolled where an employer does not post notice requirements of employee  
 28 protections under the FLSA. *Sabhnani*, 566 F. Supp. 2d at 145–46 (tolling limitations period where defendant did not  
 provide requisite notice of FLSA and where trafficking victims did not speak English). Here, Defendant did not post  
 the requisite notice of the FLSA's protections, and thus the limitations period is equitably tolled. *Id.*

1 Accordingly, Jane Doe is entitled to restitution in the amount of her unpaid minimum wages  
2 and overtime compensation under the FLSA, as well as liquidated damages, which may be  
3 calculated as follows:  $(((120 \text{ hours}) \times \$7.25) + ((133 \text{ hours}) \times \$10.875)) \times 2$ . Thus, Jane Doe is  
4 entitled to restitution in the amount of \$4,632.75. *See United States v. Sabhnani*, 566 F. Supp. 2d  
5 139, 142–46 (E.D.N.Y. 2008), *aff'd in part, rev'd in part*, 599 F.3d 215 (2d Cir. 2010).<sup>3</sup> Here, the  
6 defendant's ill-gotten gains are more than the amount Jane Doe is owed under FLSA so defendant's  
7 ill-gotten gains will be used in the calculations.

### 8 CONCLUSION

9 For the foregoing reasons, this Court should impose on the Defendant a meaningful sentence  
10 for the human trafficking of Jane Doe, which should include a restitution order of \$15,000 for  
11 Defendant's ill-gotten gains. Such an order ensures that Defendant suffers the appropriate legal  
12 consequences for the harm he inflicted on Jane Doe.  
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14  
15 DATED this 21<sup>st</sup> day of December, 2020.

Respectfully submitted,

16 By   
17 ROSE M. MUKHAR  
18 JUSTICE AT LAST  
19 Pro Bono Attorney for Victim Jane Doe  
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